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Attorneys for the UNITED STATES BOARD  
OF WATER COMMISSIONERS and  
CHIEF DEPUTY WATER COMMISSIONER/  
WATER MASTER

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

3:73-CV-00125-MMD-WGC

Plaintiff,

In Equity No. C -125

WALKER RIVER PAIUTE TRIBE,

Plaintiff-Intervenor,

vs.

WALKER RIVER IRRIGATION DISTRICT,  
a corporation, et al.,

Defendants.

**STIPULATION TO RESOLVE NATIONAL FISH & WILDLIFE  
FOUNDATION'S PETITION FOR WRIT OF MANDAMUS  
DIRECTING CHIEF DEPUTY WATER COMMISSIONER OF THE  
UNITED STATES BOARD OF WATER COMMISSIONERS TO  
COMPLY WITH WALKER RIVER DECREE; AND [PROPOSED] ORDER**

The NATIONAL FISH AND WILDLIFE FOUNDATION<sup>1</sup> by and through its attorneys,  
WOLF, RIFKIN, SHAPIRO, SCHULMAN & RABKIN, LLP, and the UNITED STATES BOARD  
OF WATER COMMISSIONERS ("Board") and CHIEF DEPUTY WATER

<sup>1</sup> The National Fish and Wildlife Foundation purchased the decreed water rights at issue in the Petition for Writ of Mandamus in the course of its administration of the Walker Basin Restoration Program ("Program"). Subsequently, management and administration of the Program were transferred to the Walker Basin Conservancy. These entities will hereafter be referred to collectively as "Petitioner"

1 COMMISSIONER/WATER MASTER (“Water Master”), by and through their attorneys, ALLISON  
2 MacKENZIE, LTD. stipulate to resolve Petitioner’s Petition for Writ of Mandamus Directing Chief  
3 Deputy Water Commissioner of the United States Board of Water Commissioners to Comply With  
4 Walker River Decree (ECF No. 1560) as follows:

- 5 1. The Water Master shall immediately start delivering and/or administering Petitioner’s  
6 Permit 80700 decree rights when in priority. The USGS Walker River Below Yerington  
7 Weir Gage (No. 10301115) (“Yerington Weir Gage”) will be used to measure water per  
8 Permit 80700 when in priority during the irrigation season. If the Yerington Weir Gage  
9 is not funded during the term of this Stipulation, a measuring gage at a suitable location  
10 to the Board will be established at the expense of the Petitioner.
- 11 2. The Petitioner agrees to fund the reactivation by the United States Geological Survey  
12 (“USGS”) of the Walker River at Miller Lane near Yerington Gage (No. 10301120)  
13 (“Miller Lane Gage”) by July 15, 2019 for a trial period of three irrigation seasons for the  
14 Water Master’s administration of instream flows under Permit 80700 for the  
15 approximately ten miles from the Yerington Weir to the USGS Walker River Near  
16 Wabuska Gage (No. 10301500) (“Wabuska Gage”). In order to reduce the costs of  
17 operating the Miller Lane Gage, the Petitioner, the Board, and the Water Master agree  
18 that the USGS will only operate, and will therefore only charge for costs of operation of,  
19 the Miller Lane Gage during the irrigation season. Petitioner seeks to obtain the  
20 discounted cost-share rate for such gages available to governmental entities. These  
21 discounts in the costs of gage operation are a principal condition upon which Petitioner  
22 has relied for its agreement to this Stipulation in light of Petitioner’s position as set forth  
23 in the Petition and Reply that additional gages are unnecessary for administration of  
24 Program Water under Permit No. 80700. Should such cost discounts not be available  
25 during the term of this Stipulation, the parties agree to meet and confer to attempt to  
26 address Petitioner’s concerns regarding the Miller Lane Gage, including alternative  
27 means to reduce Petitioner’s financial obligation.  
28

3. If the Miller Lane Gage is not operational by July 15, 2019, the Water Master reserves the right to stop delivering water under Permit 80700 and to not deliver water in priority under Permit 80700 until the Miller Lane Gage is in operation.
4. At the conclusion of the three season trial period at the end of the 2021 irrigation season, the Water Master and the Petitioner will convene a technical analysis, at which they are entitled to include any and all representatives of their choosing, to review and analyze the stream flow data generated by the Yerington Weir Gage and the Miller Lane Gage to discuss the hydrologic benefit, necessity, and/or effectiveness of the Yerington Weir Gage and/or Miller Lane Gage, including for administration of the instream flows under the Walker River Decree in the future. During the technical review, the Water Master and the Petitioner will also discuss the Water Master's requirement in her November 1, 2018 letter for additional gages between the Yerington Weir and the Wabuska Gage and the continued use of the existing Yerington Weir Gage.
5. The Petitioner, the Water Master, and the Board reserve their respective rights and positions regarding the issues raised in the Petition (ECF No. 1560), Response (ECF No. 1565) and Reply (ECF No. 1567), and each has not waived the right in the future to seek a formal determination from the Court on the issues raised therein going forward after the 2021 irrigation season.
6. Based upon this Stipulation, the Petitioner, Water Master and the Board request the Court vacate the hearing set for July 10, 2019 in the Court's Minute Order on June 3, 2019 on Petitioner's Petition for Writ of Mandamus Directing Chief Deputy Water Commissioner of the United States Board of Water Commissioners to Comply With Walker River Decree (ECF No. 1560).

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1 Dated: July 1, 2019

2 By: /s/ Christopher W. Mixson  
3 Don Springmeyer, Esq.  
4 Nevada State Bar No. 1021  
5 Christopher W. Mixson, Esq.  
6 Nevada State Bar No. 10685  
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14 *Attorneys for National Fish & Wildlife Foundation*  
15 *and Walker Basin Conservancy*

16 Dated: July 1, 2019


17 By: /s/ Karen A. Peterson  
18 Karen A. Peterson, Esq.  
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26 *Attorney for United States Board of Water*  
27 *Commissioners and Chief Deputy Water Commissioner/*  
28 *Water Master*

**ORDER**

THE STIPULATION IS APPROVED AND IT IS SO ORDERED.

DATED this 1st day of July, 2019.

  
UNITED STATES DISTRICT JUDGE

**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of **ALLISON MacKENZIE, LTD.**, and that I electronically filed the foregoing document with the Clerk of the Court by using the CM/ECF system, and that service will be accomplished on all counsel and persons requesting notice by the Court CM/ECF system, which will send notification of such filing to their email addresses.

And further I certify that I also served a copy of the foregoing document on the following non-CM/ECF participants by U.S. Mail, postage prepaid:

Bryan Bowker  
U.S. Department of the Interior  
Bureau of Indian Affairs – Western Region  
Division of Natural Resources, MS-460  
2600 North Central Avenue, 4<sup>th</sup> Floor  
Phoenix, AZ 85004

Tim Wilson, P.E.  
Dept. of Conservation & Natural Resources  
Division of Water Resources  
901 South Stewart Street #2002  
Carson City, NV 89701

Walker River Irrigation District  
P.O. Box 820  
Yerington, NV 89447

California Water Resources Department  
1416 Ninth Street  
Sacramento, CA 95814

Bradley Crowell, Director  
Dept. of Conservation & Natural Resources  
State of Nevada  
901 South Stewart Street #1003  
Carson City, NV 89701

DATED this 1<sup>st</sup> day of July, 2019.

/s/ Nancy Fontenot  
NANCY FONTENOT

4811-6685-9163, v. 1

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